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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/733,414 | 12/12/2003 | Caitlyn Curtin | 3681-000001/US | 9098 |

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| EXAMINER | |
|---|---|
| GRAVINI, STEPHEN MICHAEL | |
| ART UNIT | PAPER NUMBER |
| 3749 | |

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/733,414 | CURTIN, CAITLYN | |
| | Examiner | Art Unit | |
| | Stephen Gravini | 3749 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *25 January 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### *Claim Rejections - 35 USC § 102*

Claims 1-3, 5-6, 8, and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones (US 5,822,878). Jones is considered to disclose the claimed dryer comprising:

a diffuser **30**, **34**, or **36** for allowing air to exit or to dry a surface of a user's body (wherein the disclosed nozzle is considered to anticipate the claimed diffuser because both allow air to exit in order to dry a surface of a user's body as claimed);

movement means **46** & **48** for moving the diffuser over a wide range of angles ha order to dry different parts of the surface; and

control means **52** for sending instructions to the movement means in order to control the movement of the movement means over the wide range of angles. Jones is also considered to disclose the claimed securing means **62**, wide range of angles selection (column 6 lines 18-23), preprogrammed movement control means (column 6 lines 1-17), programmable control means **214**, a muffler (column 5 lines 6-9), a timer (column 4 line 47), and wherein the control means is operable to send the instructions to the movement means without the need for a user to access the control means (column 11 lines 54-64). The Office construes the claimed invention under the current practice for claim language falling within 35 USC 112, sixth paragraph. Please see MPEP 2181 for examination analysis.

***Claim Rejections - 35 USC § 103***

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of Aisenberg et al. (US 6,038,786). Jones is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed transceiver for detecting the presence or absence of a user, which is interpreted to be a motion or proximity sensor. Aisenberg, another dryer, is considered to disclose the claimed transceiver at column 7 lines 23-39. It would have been obvious to one skilled in the art to combine the teachings of Jones with the considered disclosed transceiver, disclosed by Aisenberg for the purposed of controlling user drying operations by automating the activation of a drying means by proximity or motion sensing.

Claims 7 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones. Jones is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed lightweight material construction and heat sensitive, resistant, or tolerant material. It would have been an obvious matter of design choice to provide any type of construction material, since the applicant has not patentably distinguished those types of claimed construction material from those found in the prior art cited in this action along with the fact that any of the prior art references teach that it would be obvious to provide lightweight material construction and heat sensitive, resistant, or tolerant material.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of Bahman (US 5,970,622). Jones is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed removable

remote control. Bahman, another dryer, is considered to disclose the claimed removable remote control at column 2 lines 23-34. It would have been obvious to one skilled in the art to combine the teachings of Jones with the considered disclosed removable remote control, disclosed by Bahman for the purposed of controlling user drying operations by allowing remote access for control.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of Chan (US 5,857,263). Jones is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed retractable power cord. Chan, another dryer, is considered to disclose the claimed retractable power cord at column 2 lines 29-40. It would have been obvious to one skilled in the art to combine the teachings of Jones with the considered disclosed retractable power cord, disclosed by Chan for the purposed of changing the length of the power supply for the drying and allowing dryer use at different locations.

***Response to Arguments***

Applicant's arguments filed January 25, 2005 have been fully considered but they are not persuasive.

*anticipatory rejection*

Applicant argues that the claimed statement of intended use reciting "a diffuser for allowing air to exit or to dry a surface of a user's body" patentably distinguishes the claimed invention over the prior art. Current Office practice limits patentability of intended use steps unless, the invention claims a different structure or mechanical intervention from the prior art. In this case the teachings of the primary reference are

capable of performing the intended use step since the disclosed dryer can be used to dry a surface of a user's body. The anticipatory rejection is considered proper and maintained.

*obviousness rejection*

Applicant traverses the first obviousness rejection on two grounds. First applicant argues that the primary reference is not asserted to teach the claimed invention, the rejection must be withdrawn. Since the rejection is not considered persuasive, the rejection is maintained. Second applicant argues that the secondary reference does not teach the missing elements found in the primary reference and it would be improper to combine those references. The rejection is considered to properly state the missing elements and discuss the appropriateness of combining those references. The first obviousness rejection is considered proper and maintained.

Examiner has modified the second obviousness rejection to more clearly show the design choice obviousness consideration and not address examiner's personal experience as asserted by applicant. The secon obviousness rejection is considered proper and maintained.

Applicant traverses the first obviousness rejection on two grounds. First applicant argues that the primary reference is not asserted to teach the claimed invention, the rejection must be withdrawn. Since the rejection is not considered persuasive, the rejection is maintained. Second applicant argues that the secondary reference does not teach the missing elements found in the primary reference and it would be improper to combine those references. The rejection is considered to properly

state the missing elements and discuss the appropriateness of combining those references. The third and fourth obviousness rejections are considered proper and maintained.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 571 272 4875. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira S. Lazarus can be reached on 571 272 4877. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SMG
February 21, 2005

Stephen M Gravini